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EXAMINER

GORR, RACHEL F

ART UNIT PAPER NUMBER

1711

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 1212

Application Number: 10/082,956
Filing Date: February 26, 2002
Appellant(s): PUTNAM ET AL.

Barry L. Kelmachter
For Appellant

EXAMINER'S ANSWER

MAILED
JAN 05 2004
GROUP 1700

This is in response to the appeal brief filed November 4, 2003.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1 and 4-7 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

4,910,279	Gillis et al.	3-1990
Ulrich ; Chemistry and Technology of Isocyanates ; 1996 ; p. 368		
6,509,434	Brown et al.	1-2000
6,127,505	Slagel	10-2000
5,718,977	Pocius	2-1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

(A). Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gajewski in view of Ulrich.

Gajewski discloses a polyurethane made from a blend of polyether prepolymers (col. 8, lines 23-27) reacted with a mixture of diamines (col. 8, lines 33-38). The prepolymers would have different NCO contents because they are made from polyols having differing molecular weights. Gajewski differs from the claims by listing diphenylmethane diisocyanate (MDI) in a list with six other preferred diisocyanates for making the prepolymers (col. 5, line 19). In the examples, he used toluene diisocyanate (TDI).

Ulrich teaches that the current trend is to replace TDI with MDI in polyurethanes because the decreased volatility of MDI means less toxicity.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to choose MDI to make the polyurethane of Gajewski because less toxic volatile isocyanate would evaporate during processing.

(B). Claims 1 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Gillis.

Gillis discloses, in example PC-1B (bottom col. 20-top col. 21), a blend of MDI/polyether prepolymers having an NCO content of 13.4 wt. %, which is about 13 %. The prepolymers would have different NCO contents because they are made from polyethers differing in molecular weight. He reacts them with a blend of a diamine and a polyamine blocked with cyclohexanone (col. 21, lines 6-8). At the bottom of col. 6, he shows that the blocked diamine unblocks in the presence of moisture. Therefore, the resulting polyurethane would comprise the reaction product of a prepolymer blend and a polyamine blend.

(11) Response to Argument

The Appellant argues that neither the Gajewski or Ulrich references discloses liquid ingredients. The prepolymers of Gajewski would be liquid because they are the same as the Appellants's prepolymers. The Brown reference cites on the first page under "Other Publications" a 1997 Albermarle brochure that states that ETHACURE 300 is liquid. The Appellant argues that Ulrich is unrelated to Gajewski. Gajewski discloses using MDI for his polyurethane and Ulrich teaches the advantages of using MDI in any polyurethane.

The Appellant argues that Gillis doesn't use a blend of only diamine curative. After exposure to moisture in ambient air, which deblocks the blocked diamine, Gillis's curative consists of a blend of diamines. The Appellant argues that Gillis

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doesn't show his components as liquid. Gillis shows the same prepolymer blend as the Appellant. Slagel, col. 4, line 39, shows that DETDA (diethyltoluene diamine) having the same isomer ratio as the one used by Gillis, is liquid. Pocius (col. 6, lines 38-39 and 57) teaches that polyoxyalkylene polyamines are liquid.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

R.G.

December 15, 2003


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